

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

PHASE II CHIN, LLC and LOVE &
MONEY, LLC (formerly dba O.P.M.L.V.,
LLC),

Plaintiffs,

vs.

No. 2:08-cv-00162-JCM-GWF

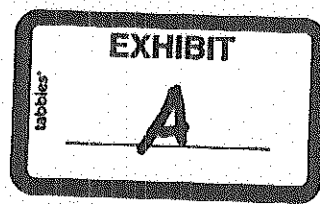
FORUM SHOPS, LLC, FORUM
DEVELOPERS LIMITED PARTNERSHIP,
SIMON PROPERTY GROUP LIMITED
PARTNERSHIP, SIMON PROPERTY
GROUP, INC., CAESARS PALACE CORP.,
And CAESARS PALACE REALTY CORP.,

Defendants.

AFFIDAVIT OF MICHAEL GOODWIN

I, Michael Goodwin, hereby swear and affirm that the following statements are true and correct to the best of my personal knowledge, information and belief:

1. I am over the age of 18 and am a resident of Clark County, Nevada.
2. Love & Money, LLC (formerly O.P.M.L.V., LLC) is a Plaintiff in the above-captioned action.
3. I was the managing partner of O.P.M.L.V. at all times relevant to the lawsuit. In 2002, in consultation with my partners, I negotiated the terms and conditions of the Management Agreement with Phase II Chin-LV, LLC/Wolfgang Puck.



4. Forum Developers Limited Partnership and GGH Restaurant, LLC, executed a Lease on March 18, 1997. GGH Restaurant's rights were succeeded by Phase II Chin-LV, LLC.

5. O.P.M.L.V./Love & Money, LLC was not a party to and had no involvement in negotiating the Lease between GGH Restaurant/Phase II Chin-LV, LLC and The Forum Developers Limited Partnership.

6. I understood that Phase II Chin-LV or Wolfgang Puck was the tenant of The Forum Shops under the Lease and that O.P.M.L.V./Love & Money, LLC was not a tenant of The Forum Shops.

7. The Management Agreement allowed for O.P.M.L.V.'s use of the space rented by Phase II Chin-LV at The Forum Shops for the operation and management of a night club on the upper level of the Chinois Restaurant.

8. The Management Agreement was negotiated primarily between myself and Wolfgang Puck through Joe Essa. I understood that Joe Essa represented the interests of Phase II Chin-LV, LLC, the Chinois Restaurant, and Wolfgang Puck. I understood that Wolfgang Puck consulted with an attorney during the negotiations. I also understood that Wolfgang Puck consulted with representatives from The Forum Shops during the negotiations.

9. The Forum Shops participated in the negotiation, finalization and approval of the Management Agreement.

10. O.P.M.L.V. had minimal bargaining power in the negotiation of terms and conditions of the Management Agreement. The lack of bargaining power was

primarily due to the fact that O.P.M.L.V. was not established in operating night clubs in Las Vegas. On the other hand, Wolfgang Puck had substantial bargaining power primarily because Wolfgang Puck had successfully operated fine dining companies at the Forum Shops, around Las Vegas and nationally. I also believe that Wolfgang Puck, as a tenant, had to yield to the demands of The Forum Shops in developing the Management Agreement to obtain the approval of The Forum Shops.

11. The Management Agreement does not contain a clause waiving O.P.M.L.V.'s right to a jury trial.

12. When I negotiated the Management Agreement on behalf of O.P.M.L.V., I did so without the assistance of an attorney.

13. When I negotiated the Management Agreement, I was never advised and there was no discussion of any kind with the representatives of Phase II Chin-LV that O.P.M.L.V.'s right to a jury trial in any future lawsuit against The Forum Shops or Caesars Palace would or might be waived.

14. When I negotiated the Management Agreement, I was never advised and there was no discussion of any kind with the representatives of The Forum Shops that O.P.M.L.V.'s right to a jury trial in any future lawsuit against The Forum Shops or Caesars Palace would or might be waived.

15. I never knowingly or voluntarily waived O.P.M.L.V./Love & Money, LLC's right to a jury trial in the pending lawsuit, *Phase II Chin, LLC and Love & Money, LLC v. Forum Shops, LLC, et. al.*, No. 2:08-cv-00162-JCM-GWF, or any lawsuit.

16. O.P.M.L.V./Plaintiff Love & Money, LLC never knowingly or voluntarily waived Plaintiff Love & Money, LLC's right to a jury trial in the pending lawsuit, *Phase*

JCM-GWF, or any lawsuit


MICHAEL GOODWIN

Sworn and affirmed before me this 19 day of November, 2009 by MICHAEL
GOODWIN.

My Commission Expires: 1-8-74

